

RESOLUTION NO. 2010-6A

A regular meeting of the City Council of the City of Cottonwood, Minnesota, was held in the Cottonwood Senior Citizens Center in said City on June 3, 2010, at 7 PM. The following members of the Council were present: Mayor Lenz, Council Members Louwagie, Magnuson and Moseng, and Clerk-Administrator Isaackson; and the following was absent: Council Member Doom.

Council Member Magnuson introduced the following resolution and moved its adoption:

RESOLUTION ADOPTING CITY OF COTTONWOOD BUSINESS SUBSIDY CRITERIA PURSUANT TO MINNESOTA STATUTES 469.310 THROUGH 469.320, AND SECTIONS 116J.993 THROUGH 116J.995.

WHEREAS, an updated Business Subsidy Policy and Criteria document has been developed for use as a guide in processing and reviewing applications requesting business assistance from the City of Cottonwood and the Jobs Opportunity Business Zone (JOBZ) program;

WHEREAS, a public hearing was held on the proposed Business Subsidy Policy and Criteria on June 3, 2010;

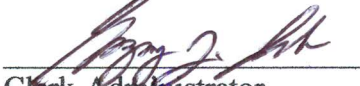
NOW THEREFORE BE IT RESOLVED BY THE COTTONWOOD CITY COUNCIL, that:

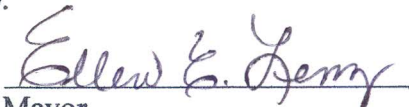
1. The attached City of Cottonwood Business Subsidy Policy and Criteria, pursuant to Minnesota Statutes 469.310 through 469.320, and Sections 116J.993 through 116J.995, is hereby adopted.
2. A copy of this policy shall be submitted to the Minnesota Department of Employment and Economic Development (DEED) or a successor entity along with the first annual report.

Seconded by Council Member Moseng, and upon a vote being taken the following voted in favor: Louwagie, Magnuson, Moseng and Lenz; and the following voted against: none.

Whereupon said resolution was declared passed and adopted.

Adopted by the City Council this 3<sup>rd</sup> day of June, 2010.

  
Clerk-Administrator

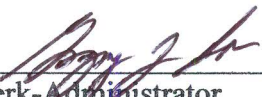
  
Mayor

SEAL

## CLERK'S CERTIFICATION

I, Gregory J. Isaackson, do hereby certify that I am custodian of the minutes of all proceedings had and held by the City Council of the City of Cottonwood, Minnesota, that I have compared the attached resolution with the original passed and adopted by the Council of the City of Cottonwood at a duly called meeting thereof held on the 3<sup>rd</sup> day of June, 2010, that the attached resolution constitutes a true and correct copy thereof, that the same has not been amended or rescinded and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto placed my hand and signature this 3<sup>rd</sup> day of June, 2010, and have hereunto affixed the seal of said City.

  
\_\_\_\_\_  
Clerk-Administrator  
City of Cottonwood MN

S E A L

# **CITY OF COTTONWOOD**

## **BUSINESS SUBSIDY POLICY AND CRITERIA**

### **PURPOSE**

The purpose of this policy and criteria is to establish the City of Cottonwood, Minnesota's (the "City") position as it relates to business subsidies under the Job Opportunity Building Zones Act pursuant to Minnesota Statutes, Sections 469.310 through 469.320 (the "JOBZ Act") and the general Business Subsidy Act pursuant to Minnesota Statutes, Sections 116J.993 through 116J.995 (the "Business Subsidy Act", and with the JOBZ Act, the "Acts"). This policy and criteria shall be used as a guide in processing and reviewing applications requesting business assistance. A copy of this policy shall be submitted to the Minnesota Department of Employment and Economic Development (DEED) or a successor entity along with the first annual report.

The City shall have the option of amending or waiving sections of this policy and criteria when determined necessary or appropriate. The Business Subsidy Act allows the City to deviate from its criteria by documenting in writing the reason for the deviation and attaching a copy of the document to its next annual report to DEED.

The public purposes of this policy shall be to accomplish the following on behalf of the City of Cottonwood;

1. Enhance economic growth in this area.
2. Create high quality job growth in this area.
3. Retain high quality jobs in this area.
4. Stabilize the community.
5. Increase tax base.

Meeting all or a majority of the criteria, however, does not mean that the business subsidy will be awarded or denied by the City. The City maintains its ability to approve or reject a business subsidy at its discretion, based on the merits of the project and the overall benefit to the community, using the criteria as a means of measuring overall benefit.



## DEFINITIONS

### **1. Business Subsidy**

"Business Subsidy" means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee or any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business, and as defined by statute M.S. 116J.993-116J.995. Business subsidies shall include, but not be limited to:

1. Loan
2. Grant
3. Tax abatement
4. TIF or other tax reduction or deferral
5. Guarantee of payment
6. Contribution of property or infrastructure
7. Preferential use of governmental facilities
8. Land contribution
9. Other specified subsidy

Business subsidies do not include the following:

1. Assistance of less than \$25,000;
2. Assistance that is generally available to all businesses or to a general class of similar businesses.
3. Public improvements to buildings or lands owned by the City that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;
4. Property polluted by contaminants as defined in M.S. 116J.552, Subd. 3
5. Assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance to designated historic sites or districts, provided that the assistance is equal to or less than 50% of the total cost of the development.
6. Assistance to provide job readiness and training services;
7. Assistance for housing;
8. Assistance for pollution control or abatement, including assistance from a TIF hazardous substances subdistrict;
9. Assistance for energy conservation;
10. Tax reductions resulting from conformity with Federal tax law;
11. Workers compensation and unemployment compensation;
12. Benefits derived from regulation.
13. Indirect benefits derived from assistance to educational institutions;
14. Funds from bonds allocated under M.S. Chapter 47A refunding bonds and 501 (c)(3) bonds;
15. Assistance for collaboration between a Minnesota higher education institution and a business;



16. Assistance for a tax increment financing soils condition district as defined under M.S. 469.174, Subd. 19;
17. Redevelopment when the Recipients or Qualified Business' investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current years estimated market value;
18. General changes in tax increment financing law and other general tax law changes of a principally technical nature;
19. Federal assistance, until the assistance has been repaid to and reinvested by the local governmental unit;
20. Funds from dock or wharf bonds issued by a seaway port authority;
21. Business loans or loan guarantees of \$75,000 or less; and
22. Federal loan funds provided through the U.S. Economic Development Administration.
23. Property tax abatements granted under section 469.1813 to property that is subject to valuation under Minnesota Rules, chapter 8100.

### **2. Job Opportunities Building Zone (JOBZ) Business Subsidy.**

Under the JOBZ Act, a Business Subsidy includes the subsidy provided through the following set of tax benefits to certain qualified businesses:

- A. Exemption from individual income taxes,
- B. Exemption from corporate franchise taxes,
- C. Exemption from state sales and use tax and any local sales and use taxes on qualifying purchases,
- D. Exemption from state sales tax on motor vehicles and any local sales tax on motor vehicles,
- E. Exemption from property tax.
- F. Exemption from wind energy production tax, and
- G. Jobs credit.

### **3. Further Definitions**

"Benefit Date" the later of either the date on which the Business Subsidy Agreement is executed or the date on which any amount of Business Subsidy is first provided to the Business Subsidy Recipient.

"Business Subsidy Agreement" means the agreement between the Recipient as defined herein and the City entered into pursuant to the Business Subsidy Act describing the subsidy, specific tangible goals (i.e., create number of jobs, establish minimum wage rates and time periods in which goals will be achieved) and providing remedy for failure to achieve goals and providing for reporting to the State of Minnesota.

"Business Subsidy Recipient" means any business entity that receives a business subsidy as defined by the Business Subsidy Act and that has signed a Business Subsidy Agreement with the City.

"Business Subsidy Report" means the annual reports submitted by the City each year for each business receiving a Business Subsidy in the City in order to comply with the Business Subsidy Act.

"Criteria" means the equitably applied, uniform standards by which the Economic Development Agency and/ or the City bases its decision to award any Business Subsidy to a private business or development project establishing a business and creating jobs in the City of Cottonwood.

"DEED" means Minnesota Department of Employment and Economic Development.

"Economic Development Agent" means the City department, local or regional economic development agency or other authorized entity that is empowered to solicit, negotiate and for business subsidy agreements on behalf of the City of Cottonwood. The Economic Development Agent for the City of Cottonwood shall be the Cottonwood City Clerk's Office, hereinafter "Agent".

"Health Insurance" means basic health insurance which shall include; employer 100% premium payment for individual coverage or 80% premium payment for family coverage; employer minimum payment for 80% of office visits, emergency care, surgery and prescriptions; a maximum yearly deduction of \$1,000 and maternity coverage.

"Living Wage Job" shall mean a job which pays wages and health benefits that total at least the rate of 110% of the current poverty level for a family of four.

"Local Governmental Unit" hereinafter LGU, means the statutory or home rule charter city, county, town, iron range resources and rehabilitation agency, regional development commission.

"Operation Start Date" shall mean the date by which the business begins its operations in the zone as evidenced by constructing a facility or relocating to an existing building in a facility and beginning revenue generating operations and/or hiring employees.

"Qualified Business" means a person that carries on a trade or business at a place of business located within a Zone and which complies with the reporting requirements specified therein and the criteria set forth herein, except in the case of a Relocating Business, as defined herein, in which case such person also meet the requirements described in the JOBZ Act, which as of March 2004 were to increase employment or to make a capital investment.

"Recipient" means any business entity that receives a business subsidy as defined by M.S. 116J.993, and that has signed a Business Subsidy Agreement with a city.



"Relocating Business" A person that relocates a trade or business from outside a JOBZ Sub-Zone into that Sub-Zone according to the criteria set forth in the JOBZ Act, which as of March 2004 meant ceasing one or more operations or functions at the non-Zone location and beginning performing substantially the same functions inside the Subzone or by reducing employment at the non-Zone location starting one year before and ending one year after beginning operations in the Sub-Zone, where the relocated employees in the Sub-Zone are engaged in the same line of business as the employees at the location where employment was reduced.

"Relocation Agreement" means a binding written agreement between a Relocating Business and the Commissioner of DEED pledging that the qualified business shall meet the requirements of the JOBZ Act, which as of March 2004 meant either: (a) increase in full-time or full-time equivalent employment in the first full year of operation within the JOBZ Zone by at least 20 percent, or (b) make a capital investment on the property equivalent to 10% of the gross revenues of operation that was relocated in the immediately preceding taxable year. As of March 2004, a Relocation Agreement also had to provide for repayment of all tax benefits if the requirements of (a) or (b) are not met.

"Subzone" means the parcel or parcels of land within the City, which the Commissioner of DEED has now, or at any time in the future, designated to receive certain tax credits and exemptions specified under the JOBZ Act.

"Zone" means a Job Opportunity Building Zone or an Agricultural Processing Facility Zone designated by the Commissioner of DEED under the JOBZ Act.

## **ELIGIBLE USES FOR THE RECEIPT OF BUSINESS SUBSIDIES**

As a matter of adopted policy, the City will consider using a business subsidy tool to assist private developments only in those circumstances in which the proposed private projects meet one or more of the following uses:

1. To enhance economic growth by increasing the tax base of the City in order to ensure the long-term ability of the City to provide adequate services for it's residents while lessening the reliance on residential property tax.
2. To retain high quality local jobs, create high quality local job growth, and provide diversity in that job base.
3. To remove blight and encourage redevelopment in the commercial and industrial areas of the City in order to encourage high levels of property maintenance and private reinvestment in those areas.
4. To redevelop blighted or under-utilized areas of the community.



5. To meet the following housing-related uses:
  - a. To provide a diversity of housing not currently provided by the private market.
  - b. To provide a variety of housing ownership alternatives and housing choices.
  - c. To promote affordable housing for low or moderate-income individuals.
  - d. To promote community stabilization and revitalization by the removal of blight and the upgrading in existing housing stock in residential areas.
6. To increase the local business and industrial market potential of the City.
7. To encourage additional unsubsidized private development in the area, either directly, or through secondary "spin-off" development.
8. To offset increased costs of redevelopment, over and above those cost that a business would incur in normal development.
9. To accelerate the development process and to achieve development on sites which would not be developed without subsidy assistance.

## **BUSINESS SUBSIDY REQUIREMENTS**

The City of Cottonwood adopts the following requirements in relation to general business subsidies in the City of Cottonwood. Any requirements specific to Minnesota JOBZ are spelled out in the Minnesota JOBZ section of this, the requirements chapter.

### General Business Subsidy Requirements

1. Any time the City of Cottonwood provides a business subsidy to a Qualified Business or Recipient that business is subject to the wage levels, job creation and other criteria set forth in this policy and specified in the Business Subsidy Agreement made with the City of Cottonwood. In the event of a conflict between the requirements of the Business Subsidy Statute M.S. 116J.993 - 116J.995 and the JOBZ Statute M.S. 469.310-469.320, the JOBZ statute shall supersede.
2. Except where job creation or job retention is not a goal, all projects receiving business assistance must create a minimum of one new full-time equivalent job for each \$25,000 of business subsidy received, which provides employer paid basic health insurance with a minimum wage and health benefits that total at least the rate per hour of 110% of the current poverty level for a family of four within two years from the Benefit Date.
3. The recipient or qualified business shall provide cash benefits, including health insurance, equal to 10% of wages. These jobs shall be created no later than a specific date identified in the Business Subsidy Agreement.

4. In the case where job creation or job retention is not a goal, the business must meet one of the following minimum requirements:
  - a. The Business Subsidy accomplishes the removal, rehabilitation or redevelopment of, or prevention of development or spread of, a blighted area as defined by Minnesota Statutes, Section 469.002, Subd. 11, or constitutes a cost or correcting condition that permits designation of a redevelopment district or renewal and renovation district under Minnesota Statutes, Section 469.174 to 469.179; or
  - b. The Business Subsidy improves public infrastructure or public facilities, including without limitation streets, sewers, storm sewers, streets, parks, recreational facilities, and other City facilities; or
  - c. The Business Subsidy removes physical impediments to development of land, including without limitation poor soils, bedrock conditions, steep slopes, or similar geotechnical problems.

The above requirements must be expressed as specific, measurable and tangible goals in each Business Subsidy Agreement. The job and wage goals that would otherwise be required may be set at zero. In addition, in the case where a business is qualified to receive JOBZ tax benefits, the requirements of a Relocation Agreement must be met.

5. The City of Cottonwood shall have an overall goal of 10% of new FTE jobs created under this policy shall be held by Cottonwood area residents. It is expected that all qualified businesses or recipients shall have a quantified target for the number of residents hired.
6. Any Business Subsidy Recipient must pay back assistance received if the job and wage goals or other specified goals are not met within two (2) years of the Benefit Date or such time as permitted by the Acts as they may be amended. For all Business Subsidies, assistance provided by the City must be paid back, with interest as determined in the Business Subsidy Act, to the City, or at the City's request, to the account created under the Business Subsidy Act. Any repayment may be prorated by the City to reflect partial fulfillment of goals. The City may, after a public hearing, extend the period for meeting job and wage goals for up to one year and may pursuant to the procedure in the Acts, extend the period for meeting other goals for any period specified by the City. For JOBZ Business Subsidies, state tax exemptions must be paid back to the State of Minnesota and property tax exemptions paid back to the Subzone county, all pursuant to the JOBZ Act. The Commissioner of DEED may waive, without a hearing, the necessity of such state and county repayment if the consultation with City officials the Commissioner determines that requiring repayment is not in the best interest of the state or City and the business ceased operating as a result of circumstances described in the JOBZ Act.



7. The City of Cottonwood may deviate from wage and job criteria in the Business Subsidy Agreement, by documenting the reason for the deviation and attaching a copy of this reason to the next annual Business Subsidy Report submitted to DEED.
8. The City of Cottonwood authorizes the Mayor, as a representative of the City to act as its Authorized Business Subsidy Signatory to execute business subsidy agreements on behalf of the City of Cottonwood.
9. The City of Cottonwood authorizes the Cottonwood Economic Development Authority (EDA) to act as its Economic Development Agent for purposes of marketing, initiating and negotiating Business Subsidy Agreements. Final approval of Business Subsidy Agreements must be made by the Cottonwood City Council and signed by the Mayor.

#### Minnesota JOBZ Requirements

The City of Cottonwood adopts the following requirements in relation to JOBZ business subsidies in the City of Cottonwood. If the business applying for the business subsidy is a JOBZ eligible business and there is a conflict between the general business subsidy requirements above and the requirements of a JOBZ business subsidy, the JOBZ requirements shall supersede. The requirements below pertain to Minnesota JOBZ only and will expire from this policy when the JOBZ program ends. The program is currently set to end on December 31st, 2015.

1. In the case of a JOBZ business subsidy, the qualified business shall be identified in the Business Subsidy Agreement as a:
  - a. Trade or business located in and operating in a JOBZ, or APF Zone at the time of Zone designation; **OR**
  - b. New trade or business start-up located within the subzone; **OR**
  - c. Business expanding in the subzone which is a business that maintains its current operations in its current location and is expanding its operations and its payroll within the City of Cottonwood's subzone; **OR**
  - d. A business relocating from another state; **OR**
  - e. A business relocating from another Minnesota non-Zone location specifying the City.



2. If the qualified business or recipient is a relocating business under the definition of this agreement, the business shall be required to enter into a binding written "Relocation Agreement" between the qualified business and the commissioner of DEED pledging that the qualified relocating business shall:
  - (A) Commit to signing a Relocation Agreement with DEED; and

**CHOOSE ONE from A or B:**

  - (A) Cease one or more operations or functions at the non-Zone location and begin performing substantially the same functions inside the City of Cottonwood Zone;
  - or
  - (B) Reduce employment at the non-Zone location starting one year before and ending one year after beginning operations in the Zone where its employees in the Zone are engaged in the same line of business as the employees at the location where it reduced employment; and

**CHOOSE ONE (or BOTH, if applicable) from C and D:**

  - (C) Increase full time employment by 20% (measured relative to the operations that were relocated) within the first full taxable year of operation within the Zone and maintain the required level of employment during each year of zone designation; or
  - (D) Make a capital investment in the Zone equivalent to at least 10% of gross revenues for the taxable year immediately proceeding relocation to the Zone.
3. The qualified business, in the case of a JOBZ business subsidy that is non-quantifiable at the time of the Business Subsidy Agreement, must create and retain for the period of the Job Zone duration or until December 31, 2015, whichever is shorter, at least one FTE job that pays a living wage for every \$25,000 of the total estimate value of all tax exemptions and credits that the qualified business anticipates receiving.
4. The business shall identify an operation start date when business operations for the proposed qualified business plans to begin in the zone. The date when business operations begin is called the "operation start date".
5. If the business is qualified to receive JOBZ tax benefits, that business shall agree to continue operations in the jurisdiction where the subsidy is used (the subzone) for the duration of the job zone term.

## **PROJECT APPROVAL CRITERIA**

The City of Cottonwood shall require all projects receiving a business subsidy to comply with the following:

1. The business and/or organization implementing the project shall attend a properly noticed public hearing, which shall be held by the City of Cottonwood as provided by M.S. 116J.994, when the value of the subsidy does or is expected to exceed \$150,000 from local sources. In the case of tax abatement, a public hearing is required for all tax abatement financing proposals. The purpose of the hearing shall be to identify the criteria that the qualified business or recipient shall meet in order to be eligible to receive a business subsidy or become a qualified business for purposes of the JOBZ statute. The hearing shall specify the subsidy provided, public purpose(s) that shall be achieved by offering the subsidy, and shall specify the measurable, specific, and tangible goals committed to by the qualified business. As provided by M.S. 116J.994, Subd. 5., a public notice shall be published in print and if possible, on the internet, at least 10 days prior to the hearing, identifying the location, date, time and place of the hearing; and providing information about the business subsidy proposed, including a summary of the terms of the subsidy.
2. The project must meet good public policy criteria as determined by the City Council, including: good project quality; projects that are in accordance with the comprehensive plan, zoning, redevelopment plans, and City policies; projects that provide improvement to surrounding land uses; projects that have significant new (or retained) employment; projects that meet financial feasibility criteria established by the City; and projects that provide the highest and best use for the property.
3. Assistance will not be provided to projects that have the financial feasibility to proceed without the benefit of the assistance. Assistance will not be provided solely to broaden a businesses profit margins on a project. Prior to consideration of a business assistance request, the City may undertake an independent underwriting of the project to help ensure that the request for assistance is valid with underwriting costs to be reimbursed by the business in all instances which shall be in addition to the application fee described herein.
4. Prior to approval of business assistance, the business shall provide any required market and financial feasibility studies, appraisals, soil boring, information provided to private lenders for the project, and other information or data that the City may require in order to proceed with an independent underwriting.
5. The business must continue operations of the project for at least five years after the Benefit Date in order to stabilize its occupancy, to establish the project management, and to initiate repayment of the business assistance. If the business is a Qualified Business, that business shall agree to continue to operate in the City for the duration of the Zone.



6. The level of business assistance funding should be reduced to the lowest possible level and least amount of time by maximizing the use of private debt and equity financing first, and then using other funding sources or income producing vehicles that can be structured into the project financing, prior to using additional business assistance funding.

### **PROCEDURES FOR GRANTING A BUSINESS SUBSIDY**

Following are the procedures that will be used by the City for any type of business subsidy:

1. Meet with appropriate City staff to discuss the scope of the project, public participation being requested, and other information as may be necessary.
2. Completion of Pre-Application Business Assistance Financing Form. This form shall be submitted to Cottonwood City Staff.
3. The Cottonwood EDA shall review the request on a preliminary basis as to the feasibility of the project.
4. If the EDA's preliminary concept review is positive, the EDA will make a recommendation to the City Council to review and approve the application.
5. The application shall be placed on the City Council agenda for concept review. The applicant may make a formal presentation of the project. The City staff and/or their consultants shall present their findings.
6. If the City Council's preliminary concept review is positive, the applicant may elect to file a formal application accompanied by an administrative fee, as determined by the City Council, as well as annual fees for monitoring and reporting as required by Minnesota statute. The amount of these fees will be determined based upon the complexity of the project and corresponding requirements for administrative services.
7. Following the necessary financial analysis and preparation of detailed plans, the City Council shall take action on the project. If approved, the staff will be directed to undertake the following steps:
  - Prepare a Business Subsidy Agreement based upon the terms approved
  - Prepare a development plan and tax increment financing plan if required
8. The City may require the business to provide additional security, such as a letter of credit, a security bond, or a guarantee from an affiliate or third party.



9. Any other necessary step as determined by the City of Cottonwood and/or the Cottonwood EDA's policies regarding specific types of business subsidies.